

HARDER STONEROCK LLP
DILAN A. ESPER (CA Bar No. 178293)
EMMANUEL FUA (CA Bar No. 284563)
8383 Wilshire Blvd., Suite 526
Beverly Hills, California 90211
Telephone: (424) 203-1600
Facsimile: (424) 203-1601
Email: DEsper@HarderLLP.com
Email: EFua@HarderLLP.com

Attorneys Muddy Waters Capital LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re BANC OF CALIFORNIA
SECURITIES LITIGATION

Case No. 8:17-cv-00118-DMG (DFMx)

CLASS ACTION

This Document Relates To:

ALL ACTIONS.

**NON-PARTY MUDDY WATERS
CAPITAL LLC'S NOTICE OF
MOTION AND MOTION FOR
SANCTIONS AND CONTEMPT
ORDER AGAINST DEFENDANT
STEVE A. SUGARMAN AND
LATHAM & WATKINS LLP**

Date: December 1, 2023

Time: 9:30 A.M.

Judge: Hon. Dolly M. Gee

Courtroom: 8C

1 **TO STEVEN A. SUGARMAN AND LATHAM & WATKINS LLP:**

2 **PLEASE TAKE NOTICE** that on December 1, 2023, at 9:30 a.m., or as soon
3 thereafter as the matter may be heard, in Courtroom 8C, 8th Floor, of the United
4 States Courthouse, 350 West 1st Street, Los Angeles, CA 900012, Non-Parties
5 Muddy Waters Capital LLC and MLAF LP (together, “Muddy Waters”) will and
6 hereby do move this Court for an order (1) holding Defendant Steven A. Sugarman
7 (“Sugarman”) and his counsel Latham & Watkins LLP (“Latham”) in contempt of
8 court due to Sugarman and Latham’s violations of the Stipulated Protective Order
9 entered by this Court on November 13, 2017 (Dkt. 83); (2) issuing an award of
10 attorneys’ fees and costs to Muddy Waters pursuant to Federal Rules of Civil
11 Procedure 16(f), 37(b)(2)(A), and the Court’s inherent power; (3) requiring Sugarman
12 and Latham to: (i) destroy all copies and be enjoined from any further use of any
13 document from or derived from Muddy Waters’ Attorneys’ Eyes Only (“AEO”)
14 document production in this matter (the “Document Production”); (ii) destroy all
15 copies of and be enjoined from further use of the Confidential Charles Lee Expert
16 Report, dated February 22, 2019 (the “Expert Report”); (iii) comply with the written
17 certification of destruction requirements in Section IX of the Protective Order for the
18 Document Production and Expert Report; (iv) provide the Muddy Waters and the
19 Court with a list of all parties who received unauthorized copies of the Expert Report
20 and/or Document Production; (v) produce to Muddy Waters and the Court all
21 transmittal emails or letters enclosing the Expert Report and/or Document Production
22 to any party not authorized under the Protective Order to receive the same; (vi)
23 comply with the remedial steps set forth in Section IV of the Protective Order for each
24 party who received unauthorized copies of the Expert Report and/or Document
25 Production; and (4) awarding any further relief this Court deems just and proper.

26 Muddy Waters further applies for an order permitting that it take discovery
27 pursuant to the Federal Rules of Civil Procedure to establish the contumacious
28 conduct of Sugarman and Latham, as well as its extent and the damage done by it.

1 This motion is based upon this Notice of Motion and Motion, the
2 accompanying Memorandum of Points and Authorities in Support, the Declarations of
3 Adam A. Levine and Carson Block and accompanying exhibits filed concurrently
4 herewith, the pleadings and records on file in this action and the related action, *In re*
5 *Subpoenas to Produce Documents, Information, or Objects to Muddy Waters, et al.*,
6 Case No. 2:18-mc-00147-AG (DFMx) (C.D. Cal.), and any such other and further
7 argument and evidence as may be presented at or before the hearing on this matter.

8 This motion is made following multiple conferences of counsel pursuant to
9 L.R. 7-3, the most recent of which took place on October 11, 2023.

10
11
12 Dated: October 20, 2023

HARDER STONEROCK LLP

13
14 By: /s/ Dilan A. Esper

DILAN A. ESPER

Attorneys for Muddy Waters Capital LLC

CERTIFICATE OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 8383 Wilshire Blvd., Suite 526, Beverly Hills, California 90211.

On October 20, 2023, I served true copies of the following documents described as:

NON-PARTY MUDDY WATERS CAPITAL LLC'S NOTICE OF MOTION AND MOTION FOR SANCTIONS AND CONTEMPT ORDER AGAINST DEFENDANT STEVE A. SUGARMAN AND LATHAM & WATKINS LLP

On the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent to the persons at the email addresses listed in the Service List below. I did not received within a reasonable time after the transmission any electrical message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correction and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 20, 2023, at Beverly Hills, California.



Marcie Moreno

SERVICE LIST

Latham & Watkins LLP Manual (Manny) A. Abascal 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071 manny.abascal@lw.com	<i>Attorneys for Latham & Watkins LLP</i>
Michelman & Robinson, LLP Mona Hanna 17901 Von Karman Ave., 10 th Floor Irvine, CA 92614 MHanna@mrlp.com	<i>Attorneys for Defendant Steven A. Sugarman</i>